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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,260	11/01/2001	Toshihiro Tomita	791_169	1318
25191	7590	05/26/2006	EXAMINER	
BURR & BROWN			SAMPLE, DAVID R	
PO BOX 7068			ART UNIT	
SYRACUSE, NY 13261-7068			PAPER NUMBER	

1755

DATE MAILED: 05/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/980,260

Applicant(s)

TOMITA ET AL.

Examiner

David Sample

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-50, 52 is/are pending in the application.
- 4a) Of the above claim(s) 29-48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-28, 49, 50 and 52 is/are rejected.
- 7) ☒ Claim(s) 25, 26 and 52 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Any rejections and/or objections, made in the previous Office Action, and not repeated below, are hereby withdrawn.

The rejection of the claims as lacking written support in the specification, as filed, is hereby withdrawn. Upon further consideration, it is the examiner's position that the phrase "a porous zeolite shaped body" provides adequate written support for the phrase "a three-dimensional structure including pores defined between said particles." In the phrase "a porous zeolite shaped body," one of skill in the art would have recognized that the word "porous" modifies "shaped body" rather than "zeolite."

Claim Objections

Claims 25, 26 and 52 are objected to because of the following informalities:

In claim 25, line 3; claim 26, line 3; and claim 52, line 2, the term "silica sol" is objected to. Silica sol is a colloidal suspension of silica in water, not a part of a zeolite. The claim would make more sense if "silica sol" were changed to "silica." (One of ordinary skill in the art reading the claims in light of the specification would recognize that the silica sol means the silica in the zeolite, and therefore, the phrase is not indefinite.)

In claim 26, line 2, the limitation "under crystallization" would be clear on its face (rather than after a study of the specification) if it were changed to "incompletely crystallized."

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 26, 50 and 52 are rejected under 35 U.S.C. 102(b) as being anticipated by Murrell et al. (US 6,004,527).

Murrell et al. discloses an incompletely crystallized zeolite (i.e., “under crystallization” in the claim terminology) that is formed from a reaction mixture having a TPA/SiO₂ ratio of 0.060. See Examples 6-8, col’s 17-18.

The zeolite is crystallized from an amorphous oxide raw material and the product maintains the appearance of the starting material and includes zeolite crystallites therein. Id and the abstract. This disclosure shows that the product is a “zeolite shaped body.”

The materials contain macro and meso-porosity which is the same as the claimed “pores defined between said particles.” See the abstract.

Claims 25-28, 49, 50, 52 are rejected under 35 U.S.C. 102(e) as being anticipated by Oku et al. (US 2002/0041845).

Oku et al. discloses moldings of binderless zeolites (i.e., shaped bodies) that are made from reaction mixtures having TPA/SiO₂ ratios of between 0.03 and 0.07. See

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pages 8-11, Examples I-1, I-4, I-6, II-1, II-2, and II-3. The products have pores that are greater than 4 nm. See paragraphs [0139], [0149] and [0155]. (Zeolites have pores in the angstrom range. Therefore, the porosity referred to by Oku et al. must be inter-crystalline porosity.)

Oku et al. discloses both incompletely crystallized (paragraph [0148]) and completely crystallized (paragraph [0137]) materials.

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Sample whose telephone number is (571)272-1376. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (572)272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "David Sample", is written over the printed name.

David Sample
Primary Examiner
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